

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

IN RE: NATIONAL COLLEGIATE ) Docket No. 13 C 9116  
ATHLETIC ASSOCIATION STUDENT- )  
ATHLETE CONCUSSION INJURY ) Chicago, Illinois  
LITIGATION, ) April 5 2016  
 ) 1:00 o'clock p.m.

TRANSCRIPT OF PROCEEDINGS - MOTION  
BEFORE THE HONORABLE JOHN Z. LEE

APPEARANCES:

For the Plaintiffs: HAGENS BERMAN SOBOL SHAPIRO, by  
MS. ELIZABETH A. FEGAN  
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Chicago, Illinois 60611

SIPRUT PC, by  
MR. MICHAEL SILVERMAN  
17 North State Street  
Suite 1600  
Chicago, Illinois 60602

For the Nichols Objectors: EDELSON PC, by  
MR. ARI JONATHAN SCHARG  
350 North LaSalle Street  
Suite 1300  
Chicago, Illinois 60654

For the Whittier Objectors: COATS ROSE YALE RYMAN & LEE, by  
MR. DWIGHT E. JEFFERSON  
Nine Greenway Plaza  
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Houston, Texas 77046  
(appearing telephonically)

ALEXANDRA ROTH, CSR, RPR  
Official Court Reporter  
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1 APPEARANCES: (Continued)

2 For Defendant NCAA:

LATHAM & WATKINS, by  
MS. JOHANNA MARGARET SPELLMAN  
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Suite 2800  
Chicago, Illinois 60611

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1 (Proceedings had in open court:)

2 THE CLERK: 13 C 9116, NCAA Student-Athlete Concussion  
3 Injury Litigation, for motion hearing.

4 MS. SPELLMAN: Good afternoon, your Honor. Johanna  
5 Spellman for the NCAA.

6 MS. FEGAN: Good afternoon, your Honor. Elizabeth  
7 Fegan for plaintiffs.

8 MR. SILVERMAN: Good afternoon, your Honor. Michael  
9 Silverman for plaintiffs.

10 MR. SCHARG: Ari Scharg on behalf of the Nichols  
11 objectors.

12 THE COURT: And we have --

13 MR. JEFFERSON: Dwight Jefferson on behalf of the  
14 Whittier objectors.

15 THE COURT: All right. Good afternoon.

16 So this is an agreed motion for extension of time.  
17 Ms. Spellman, do you want to update me on what's going on?

18 MS. SPELLMAN: Yes, your Honor. Since the parties  
19 were last before your Honor, we have arranged and engaged in  
20 mediation before Judge Andersen. Currently the NCAA and class  
21 counsel's supplemental submission on the viability of single-  
22 school and single-school-single-sport bodily injury classes are  
23 due on April 15.

24 We have been focusing our efforts on mediation, as we  
25 believe that is the most productive way to reach resolution.

1 So we respectfully ask that the Court grant an extension of one  
2 month of that April 15 deadline to allow the parties to  
3 participate in mediation with Judge Andersen.

4 THE COURT: It's the most efficient way if the parties  
5 can strike a deal. It's a big waste of time if the parties  
6 can't, from my perspective.

7 Let me hear from the Nichols counsel. There is no  
8 objection to the motion, correct?

9 MR. SCHARG: No.

10 THE COURT: And so, Ms. Fegan, just so I give everyone  
11 a chance to speak here, how are things going in mediation?  
12 What are some of the things that are being discussion? Or  
13 anyone can kind of chime in. And how many times have you met  
14 with -- I believe you are meeting with Judge Andersen, right?  
15 And are there plans for future meetings?

16 What is the status of things, generally speaking?

17 MS. FEGAN: Your Honor, we have had several  
18 discussions with defense counsel. We have not yet met with  
19 Judge Andersen. I am not sure if they have. But we have had  
20 some fruitful discussions about things to be discussed with  
21 Judge Andersen. But it is, I think, in its preliminary stage.

22 MS. SPELLMAN: Yes, your Honor, and I could add,  
23 scheduling a meeting with Judge Andersen has been somewhat  
24 complicated by he has a three-week arbitration this month,  
25 which unfortunately means that we are looking at dates later in

1 the month to actually get together and mediate. If that  
2 arbitration -- if that case settles, then we are hopeful we  
3 could -- we could meet with him sooner than that.

4 THE COURT: Okay. But at this point at least the  
5 parties believe that additional -- there is stuff to talk  
6 about?

7 MS. SPELLMAN: Yes, your Honor.

8 THE COURT: Everyone is nodding.

9 MR. JEFFERSON: Judge --

10 THE COURT: Mr. Jefferson, go ahead.

11 MR. JEFFERSON: I don't know anything about this.

12 THE COURT: Well, I am sure that you are free to call  
13 any of the attorneys here and ask them what's going on.

14 All right. So currently, the supplemental pleadings  
15 are due April 15.

16 MS. SPELLMAN: That is correct, your Honor.

17 THE COURT: And the requested extension is to May 16.

18 MS. SPELLMAN: Yes.

19 THE COURT: Yes, Mr. Jefferson, anything to add?

20 MR. JEFFERSON: Judge, would it be inappropriate for  
21 me to ask you to have the defendants to include me in  
22 communications regarding the mediation? I mean, you know, I  
23 have done a few of those. I might have some ideas that might  
24 be able to help.

25 THE COURT: Mr. Jefferson, what I would suggest is,

1 you go ahead and contact lead counsel that the Court has  
2 already designated for the case and submit your request to  
3 them. Okay?

4 MR. JEFFERSON: Yes, your Honor.

5 THE COURT: It doesn't seem like an unreasonable  
6 request, given the posture of the case.

7 All right. Well, is there anything else?

8 MS. SPELLMAN: No, your Honor.

9 THE COURT: Given the parties' continuing efforts to  
10 try to address the issues, I am assuming what the parties are  
11 trying to address are the concerns that I raised in my  
12 memorandum opinion, is that correct.

13 MS. SPELLMAN: Correct.

14 THE COURT: I am amenable to giving the parties some  
15 time to try to explore additional ways of trying to address  
16 those concerns. At some point, though, the case has to  
17 continue, right? And so I would encourage the parties to  
18 exhaust whatever discussions that they need to have within the  
19 timeframe that I am allotting, so that to the extent that any  
20 supplemental filings need to be made, they may be done in a  
21 timely fashion on a going forward basis. The motion has been  
22 pending for some time.

23 I know that there is a lot of complicated issues. And  
24 I know the parties are still trying to work through some of the  
25 things that I stated in my opinion. And I understand that.

1 But I do want to just let the parties know that I am anxious to  
2 get this case moving forward one way or the other. Okay?

3 All right. Very good. So with that, the agreed  
4 motion for extension of time is granted.

5 MS. SPELLMAN: Thank you, your Honor.

6 MS. FEGAN: Thank you, your Honor.

7 MR. SCHARG: Thank you.

8 (Which were all the proceedings had at the hearing of the  
9 within cause on the day and date hereof.)

10 CERTIFICATE

11 I HEREBY CERTIFY that the foregoing is a true, correct  
12 and complete transcript of the proceedings had at the hearing  
13 of the aforementioned cause on the day and date hereof.

14  
15 /s/Alexandra Roth

4/18/2016

16 \_\_\_\_\_  
17 Official Court Reporter  
18 U.S. District Court  
19 Northern District of Illinois  
20 Eastern Division

\_\_\_\_\_  
Date